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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

SUSAN LALL-YEPEZ,

Respondent,

v.

MISTER PUKKA,

Appellant.

B283975

(Los Angeles County
Super. Ct. No. LS028159)

APPEAL from a judgment of the Superior Court of Los Angeles County, Alicia Blanco, Commissioner. Reversed.

Cliff Dean Schneider, for Appellant.

Tamer Law Corp., Steven Tamer; Anthony M. Horaites, for Respondent.

Appellant Mister Pukka appeals from a civil harassment restraining order issued under Code of Civil Procedure section 527.6 in favor of respondent Susan Lall-Yepez. On appeal, Pukka contends the order is not supported by substantial evidence of a credible threat of violence or a course of conduct constituting harassment. We conclude that there is no substantial evidence to support the restraining order. Although the restraining order expired by its own terms on December 20, 2017, the appeal is not moot because the propriety of the ruling affects the eligibility of the prevailing party for an award of attorney fees. Therefore, we reverse.

FACTS AND PROCEDURAL BACKGROUND

Relationship between the Parties

Pukka and Lall-Yepez are neighbors in a rent-controlled apartment complex in Sherman Oaks. Pukka is the sole Black tenant in the building. Pukka and Lall-Yepez were friendly when Lall-Yepez's son was born in 2011. In 2012, their relationship changed as a result of an e-mail that Lall-Yepez drafted in support of Pukka's complaints to the landlord about a smell in his apartment. Lall-Yepez's husband Robert Yepez has not spoken with Pukka since 2012. Pukka kept a target range picture with bullet holes in his car to deter theft.

In November 2014, Pukka wrote an e-mail to Lall-Yepez asking that her son not play ball on Pukka's porch. He printed out the e-mail, attached a picture of her son playing on his porch, which he had taken from inside his apartment, and posted it on her door. Between November 2014 and February 2016, Lall-Yepez had no conversations with Pukka and received no written messages from him.

On February 5, 2016, Lall-Yepez was in the common area with her son and her son's therapist. Pukka screamed at her son from inside his home through his screen door. Pukka called the non-emergency number for the police, who came to the complex and spoke with both parties. Lall-Yepez felt threatened by Pukka.

She filed a request for a civil harassment restraining order on February 18, 2016, which was dismissed for failure to prosecute. The petition stated that Pukka had screamed at her 4-year-old son through his screen door to get off of his porch. Her son was with his therapist and fully supervised in the outdoor common area. Pukka has told everyone that he is a probation officer and he has a gun. She feared for the safety of herself and her family. Psychologically, she had extreme anxiety and post-traumatic stress from being anywhere near Pukka. He is very unstable and volatile.

Lall-Yepez's husband knew that Pukka e-mailed pictures of Lall-Yepez, her son and her son's therapist to the landlord with complaints, because the landlord showed the pictures to him. Lall-Yepez's husband felt uncomfortable taking his son outside to play, or even letting his son walk to

the laundry area with him, because he did not know if Pukka was going to take pictures.

A new owner purchased the property in April 2016. The owner installed video cameras around the apartment building that recorded all sides of the building and the parking area. Residents can use an application to see the camera views at any time. The owner filed and served an unlawful detainer action against Pukka on May 11, 2016.

On May 30, 2016, a female guest of a new tenant parked in Pukka's parking spot and left a telephone number to call. Pukka parked behind the guest and called the number. He was on crutches after surgery. The guest refused to move her car and told Pukka that he was being threatening. Pukka called the police. When the guest realized that Pukka was calling the police, she called the police as well. The police spoke with both parties and the guest moved her car.

Petition and Temporary Restraining Order

On June 22, 2016, Lall-Yopez filed the petition in this case seeking a restraining order against Pukka.¹ She sought protection for herself, her husband, and her son. This petition contained allegations similar to the original petition: Pukka had harassed her from November 2014 through the present. Beginning in November 2014, Pukka screamed and

¹ Lall-Yopez's attorney also represented the owner in the unlawful detainer proceedings against Pukka.

yelled in an aggressive, threatening manner at her son and herself when her son was in the common areas of the apartment building. She had witnessed Pukka scream and yell in an aggressive and threatening manner at her son's therapist, neighbors and guests. Pukka stated repeatedly, "I have a gun and I know how to use it." He kept a shooting range target with bullet holes in the back seat of his car. He had threatened to use a gun. She feared for her child's safety and her own. Her family lived in fear every day that Pukka's threats would escalate, because he was unpredictable and volatile, and said that he had a gun. She had extreme anxiety and post-traumatic stress disorder from being anywhere near Pukka. Pukka harassed her at other times by emailing rude letters to her and taping letters on her door. They lived in fear of what he was capable of doing.

Lall-Yeppez requested a personal conduct order requiring Pukka not to: harass, intimidate, molest, attack, strike, stalk, threaten, assault, hit, or abuse them; destroy their personal property; disturb their peace; or contact her and her family, directly or indirectly, in any way. She requested that the court order Pukka to stay at least 100 yards from her and her family, her home, her vehicle, her workplace, her son's school and child care center. She checked a box indicating that she did not know if Pukka had any guns or other firearms. She also requested removal of Pukka from the apartment building.

A temporary restraining order was entered that day ordering Pukka not to: harass, intimidate, molest, attack,

strike, stalk, threaten, assault, hit, or abuse Lall-Yepez or her family members; destroy their personal property; disturb their peace; contact her and her family members, directly or indirectly, in any way; or take any action to obtain their address or location. Pukka was ordered to stay 100 yards away from Lall-Yepez and her family, her home, her vehicle, her workplace, and her son's school and child care center. Pukka was not allowed to own or obtain guns or ammunition. He must sell, turn in, or store with a licensed gun dealer any guns or firearms in his immediate possession or control. The court noted that it did not have authority in a civil harassment application to remove or evict a tenant, which must be made upon proper notice in an unlawful detainer action.

Trial

Hearings were held on six dates between September 22, 2016, and June 21, 2017. On the first day of the proceedings, Pukka provided Lall-Yepez with copies of 31 photos. Lall-Yepez was the first witness to testify. The court asked if all of the allegations in her petition were true and she said they were. Lall-Yepez's attorney clarified that Pukka had never threatened to shoot Lall-Yepez. Pukka's attorney asked whether she had recently used the courtyard to barbecue and she responded that she had not used the courtyard to barbecue since May.

Lall-Yepez can hear Pukka's voice through her floorboards when he is yelling or having a loud, aggressive conversation. When she hears him yelling, she freezes up and has a knot in her stomach that grows. It takes her five minutes of mental meditation to bring herself out of her fear to proceed, because she completely shuts down. She is afraid that he will hurt her, her husband, and/or her child.

Lall-Yepez recalled an incident where she felt threatened by Pukka, although she could not remember the date. Lall-Yepez asked, "Can you please close the gate. You know that the baby and I are out here." Pukka responded, "Well, then you need to keep a better eye on your child." Lall-Yepez replied, "No. You're a probation officer, supposedly, and you know better." That was when Pukka was in her face and made her fearful, when all she asked was for him to close the gate, and he was yelling at her, telling her that she needed to be a better mother. At that point, Lall-Yepez knew she could not have any further communication with Pukka, because it could become a hostile situation.

Lall-Yepez introduced the photos that Pukka provided earlier that day in anticipation of the hearing. Four were dated May 1, 2016, and showed people at a barbecue in the common area. Lall-Yepez testified that the people in the photos were not her or her son. There was a photo of Lall-Yepez's son standing in the common area in front of Pukka's apartment. Another photo taken 10 days prior to the hearing showed a person barbecuing in the courtyard, but it

was not Lall-Yepez. Several of the photos had no people in them. There were two photos of Lall-Yepez near a barbecue grill that were taken on the same day. She had been setting up the barbecue grill to see if it still worked, which had taken a few hours. Lall-Yepez's husband also testified that he felt threatened, along with his family, by Pukka.

Pukka testified that he had taken the photos from inside his apartment, through his screen door, of events taking place outside his door. Pukka did not know how many pictures he had taken of Lall-Yepez's family.² Several of the pictures showed Pukka's car with a full-sized refrigerator behind it. There were pictures of other cars, including cars parked in Pukka's parking space in the parking garage. He took pictures of license plate numbers in the event that he needed proof in court. The camera roll on one picture indicated it was 92 of 95 pictures. The camera roll on another photo taken on April 27, 2016, indicated it was photo number 311.

Pukka took additional pictures during the course of the trial, which he provided at subsequent hearings. Pictures dated January 28, 2017, which Pukka took from inside his

² Lall-Yepez's attorney asked Pukka if he had taken more than 100 photos of the Yepez family over the course of his tenancy. Pukka responded that he did not think it was that much, although there were more photos now, because of the attempted eviction and the allegations that he was threatening. Lall-Yepez objected to Pukka's answer as nonresponsive and asked to have it stricken. The trial court struck the answer. The question was not asked again.

apartment, show Lall-Yepez's son playing with his father in the courtyard. Other pictures showed the boy playing in the courtyard alone. There were more pictures of cars parked in the parking lot and pictures of the landlord. Pukka testified that he took pictures to document everything that he might need for proof, and to show that Lall-Yepez and her family were not living in fear of him. He said he did a lot of documenting, because it was hard to keep track of everything. Initially, he had taken a picture of Lall-Yepez's son, because the boy was on Pukka's porch being disruptive. Pukka took the picture to have proof in the event someone denied the boy was on Pukka's porch. He also wanted to show the judge that Lall-Yepez sat in the courtyard for a long time, relaxing and not in fear. Lall-Yepez's attorney asked if he had a gun. Pukka replied that he had two guns, which he had removed from his home and stored elsewhere at the direction of the court. Asked if he knew how to use the guns, he said that he did.

At the fifth hearing held on June 19, 2017, the court noted that despite the number on the camera roll, the evidence did not show that Pukka took 352 photographs of Lall-Yepez and her family. Lall-Yepez's attorney estimated that six to eight of the photographs were taken before the temporary restraining order was entered. The court noted evidence that Pukka took approximately 45 photographs after the temporary restraining order was entered, but that the photographs were not all taken of Lall-Yepez's family. Pukka's attorney stipulated that more than ten of the

pictures Pukka took after the temporary restraining order were of Lall-Yepez's family.

A female friend of Pukka testified that a few months earlier on Easter Sunday, Pukka had been driving her home on a route that passed the apartment complex. A large black truck pulled up behind Pukka's car, very close to the bumper, driving erratically and flashing its lights constantly for a quarter or a half of a mile. As Pukka's route passed the apartment complex, the truck turned in. Pukka turned his car around and stopped across the street. The friend saw Lall-Yepez's husband get out from the driver's side and Lall-Yepez exit from the passenger side.

In closing argument on June 19, 2017, Lall-Yepez's attorney argued that Pukka had taken close to 100 pictures of Lall-Yepez and her family without their knowledge. The trial court stated that collateral issues, which included the incident in the parking lot, the remark about having a gun and knowing how to use it, and the original incident that caused the falling out, were not persuasive and did not reach the level of clear and convincing proof. The court found the photographs were the deciding factor. The court added, "And I think there was absolutely no dispute but that there were hundreds or 100 or even 90 or 80 photographs taken in this case of [Lall-Yepez] and her child and her family doing different things, whether they were on the porch or cleaning the barbeque or playing in the . . . common area of this apartment complex. [¶] And I believe, in this case, that these photographs do not serve a legitimate purpose. I know

that respondent claims that he documents, and he documents everything. And I know based on what has happened . . . respondent feels that he is persecuted.”

“I know that in this case he feels that there is some collusion between [Lall-Yepez] and the landlord such that both of them were trying to conspire in some way to get him evicted. [¶] I don’t believe that, given that set of circumstances, that 100 photographs taken of [Lall-Yepez] and her family and her son who apparently suffers from a learning disability or mental disorder, is reasonable. And I think it is alarming. And especially when those photographs are attached to [notes] posted on [Lall-Yepez’s] door. [¶] That type of conduct the court finds to constitute alarming behavior that could seriously concern and harass an individual. [¶] On that basis, the court is finding that [Lall-Yepez] did satisfy her burden by clear and convincing evidence, and that a civil harassment restraining order should be, must be granted. [¶] The question remains for how long.”

The trial court allowed Pukka to explain that the police officer who responded on February 5, 2016, had advised him to take pictures and record everything to protect himself. The officer’s advice to record everything was in the police report and on the card that the officer gave Pukka. After the temporary restraining order was entered, Pukka’s attorney told him that he could continue to take pictures that disproved Lall-Yepez’s claims in the case. Pukka stated that he took about eight pictures before the incident in February

2016, all of which were taken of people on his porch, so that he could have evidence to support his complaint that they were on his porch.

Pukka's attorney also objected that Pukka had no notice that Lall-Yepez was seeking a restraining order based upon the allegation that Pukka taking photographs was harassing. The pleadings referenced a particular event, and did not allege any harassment of the family through taking pictures. All of the photos, except for a few, were taken after the petition had been filed. The few photos taken before the petition was filed could not form the basis of the petition filed in June 2016.

Lall-Yepez's attorney argued that ten photos were enough to support a restraining order. The court continued the hearing. On June 21, 2017, the trial court finished giving its ruling and granted the restraining order as follows: "The court finds that Miss Lall-Yepez has satisfied her burden by clear and convincing evidence of demonstrating that a credible threat of violence and/or a knowing and willful statement or course of conduct has taken place that would place a reasonable person in fear of his or her safety or the safety of his or her immediate family. And that this credible threat of violence and knowing or willful statement or course of conduct served no legitimate purpose.

"The court also finds that [Pukka] in this case engaged in a knowing and willful course of conduct that was directed at [Lall-Yepez] that seriously alarmed, annoyed or harassed

her, and that served no legitimate purpose. Specifically, there was testimony from [Lall-Yepez] that [Pukka] had said to her on occasion, that he had a gun and he knew how to use it.

“Irrespective of the context of that, that comment taken by itself . . . is an alarming comment, seriously alarming comment. Given the history between the parties, one which started amicably but which is no longer friendly, to say the least, it is a comment that could instill fear in a reasonable individual, and that did instill fear in Miss Lall-Yepez.

“In addition to the comment, there was testimony taken of photographs, numerous photographs that were taken by Mr. Pukka in this case. And while he claims that there was a legitimate purpose served in that he documents everything because of his belief that he is being either set up or he is being somehow placed in a position to where he’s going to be evicted, or put in a position where he’s going to need to cause some sort of incident that will lead, in effect, to his eviction, that he was told by officers that he should take photographs. [¶] And while that might be the case, the court believes that the sheer number of photographs that were taken by Mr. Pukka, and that were admitted to by him, in effect, constituted surveillance of [Lall-Yepez].

“ Any time [Lall-Yepez] or her family members or her little boy were in the courtyard area or outside on the porch or engaging in behaviors that were photographed for the purpose of showing that there was no fear on the part of [Lall-Yepez], I think that every photograph in addition to

that which might have been needed to prove that point, I don't know what that number is, five, perhaps ten over the course of time that the two have had acrimonious relations, maybe ten or twenty, I don't know. But over 100 photographs were admitted to and conceded by [Pukka] as having been taken, one of which was posted on [Lall-Yepez's] door attached to [a note] which was alarming to [Lall-Yepez].”

The trial court reviewed the applicable law and evidence that supported finding Lall-Yepez suffered emotional distress. The court noted that the hearings spent a lot of time on incidents involving Pukka and third parties, which the trial court did not take into consideration because the present matter involved Lall-Yepez and Pukka. The court found Pukka's testimony to be intelligent and articulate. His credibility suffered when he dodged responses and refused to acknowledge his former attorney's description of a courtroom incident.

The court stated, “I also believe that this behavior has been going on for a while, and the court does not believe that without a restraining order in place that it would necessarily cease. And that refers to the photographs, the photographing, the documenting, the surveilling.”

“The parties live in the same complex, so you're going to have to see each other from time to time. A stay-away order will be fashioned in a way that will not evict Mr. Pukka from his home. But the length of time here is what is troubling the court, in terms of the length of restraining

order needed. I don't think a lengthy term is needed. I think Mr. Pukka needs to recognize that the behavior in which he was engaging is not appropriate, and that needs to be stopped. But both of you are going to have to continue living where you live, and you're going to have to see each other, in the parking lot, or in a common area, or otherwise."

The court allowed Pukka to interject that he had counted the photos with his attorney and 34 photos had been submitted. Pukka's attorney argued that taking pictures to contradict testimony that had already been elicited in the proceedings was a legitimate purpose.

The court stated, "It's not just the taking pictures. Taking pictures is only one factor that the court considered. The court considered the testimony of all the individuals that testified, mainly [Pukka's] and [Lall-Yepez's] because the other individuals didn't have much to say except that they had aggressive, unpleasant encounters with [Pukka]. That really doesn't get us here or there any further, because this hearing is just about [Lall-Yepez's] request for restraining orders against [Pukka]. [¶] But the pictures are only one factor of this. It's only one factor."

Lall-Yepez's attorney insisted Pukka had testified he took 100 pictures. The court stated, "That's what I thought." Pukka interjected and strenuously denied that he had testified to taking 100 pictures of Lall-Yepez and her family members. He argued that he was not initiating encounters, not going on anyone else's porch, and not parking in anyone else's parking place. He tried to defend himself in the right

way and wanted to be treated fairly. Instead of being rewarded for his behavior, he was getting a restraining order against him that could have an effect on his ability to work in law enforcement. He offered that he would not take one picture after the case ended if the allegations were found not to be true.

The trial court acknowledged Pukka's statements, but noted that the court had observed micro-aggressions in the courtroom. The court concluded, "My initial feeling with respect to the length that this restraining order should be in effect was six months. I don't know whether a six-month period of restriction, with no photographs, no surveilling, no contact, a stay-away is really going to be enough. . . . I think it is. But I don't know based on how Miss Lall-Yepez has felt throughout this and her demeanor throughout these proceedings as well which has at times not been the most optimal."

Lall-Yepez's attorney argued that Lall-Yepez was so fearful of Pukka in the courtroom that the length of the restraining order should be longer. Pukka's attorney argued that the temporary restraining order had already existed for a year. He disagreed with the court's finding that taking pictures from the interior of a house, when the subject was unaware that the picture was being taken, was a concern. Aside from that, Pukka had complied with the restraining order. The court agreed that there had not been any issues in the past year that would indicate Pukka was in violation of the restraining order. Lall-Yepez's attorney asserted that

the photo-taking was a violation of the restraining order. The court responded, “But as [Pukka’s counsel said,] there was never an order that said that he couldn’t take photographs. [¶] I believe that it’s surveillance. I believe that it is not authorized. I believe that it is part and parcel of the foundation of my finding that there was harassment in this case. [¶] But now there is a very clear directive that there is to be no more surveillance. There is to be no more surreptitious photograp[hy of Lall-Yepez] and her family.”

Pukka expressed concern about the length of the order, because an appeal would not be heard for at least a year. He was concerned that if the restraining order expired before the appeal could be heard, the issues would be moot and there was no reason to appeal. The trial court denied that it would be moot. The court said that if the appellate court found in Pukka’s favor, then it was incorrect to grant the restraining order. Simply because the order expired before an appeal was decided did not mean it would be an exercise in futility to appeal. Pukka thanked the court for the clarification.

On June 21, 2017, the trial court entered a permanent restraining order for a period of six months, which expired on December 20, 2017. Pukka filed a timely notice of appeal.

On July 21, 2017, Lall-Yepez filed a motion seeking an award of attorney fees under Code of Civil Procedure section 527.6, subdivision (s), in the amount of \$34,200. Pukka has represented to this court that a hearing was held on

September 28, 2018, and a ruling on the motion for attorney fees is pending.

DISCUSSION

Mootness

Although the civil harassment restraining order expired on December 20, 2017, the appeal in this case is not moot, because the propriety of the trial court's ruling will effect whether Lall-Yeppez is eligible for an award of attorney fees as the successful party.

““If relief granted by the trial court is temporal, and if the relief granted expires before an appeal can be heard, then an appeal by the adverse party is moot.” (*City of Monterey v. Carrnshimba* (2013) 215 Cal.App.4th 1068, 1079.)” (*Harris v. Stampolis* (2016) 248 Cal.App.4th 484, 495 (*Harris*)). An appeal is generally moot when any ruling by this court “can have no practical effect [nor can it] provide the parties with effective relief.” (*Lincoln Place Tenants Assn. v. City of Los Angeles* (2007) 155 Cal.App.4th 425, 454.) “It is well settled that an appellate court will decide only actual controversies and that a live appeal may be rendered moot by events occurring after the notice of appeal was filed. We will not render opinions on moot questions.” (*Building a Better Redondo, Inc. v. City of Redondo Beach* (2012) 203 Cal.App.4th 852, 866.)

The propriety of the restraining order in this case is not moot, because it affects the prevailing party's eligibility for an award of attorney fees. (*Cf. Carson Citizens for Reform v. Kawagoe* (2009) 178 Cal.App.4th 357, 365 [although action for declaratory relief was no longer viable, appeal was not moot due to award of attorney fees]; *Save Our Residential Environment v. City of West Hollywood* (1992) 9 Cal.App.4th 1745, 1750–1751 [appeal was not moot after city complied with writ, because judgment included award of attorney fees under Code of Civil Procedure section 1021.5 that depended on propriety of trial court's ruling on the merits]; *Mapstead v. Anchondo* (1998) 63 Cal.App.4th 246, 277–279 [appeal from judgment issuing writ of mandate dismissed as moot after election had been held, but sufficiency of petition signatures reviewed in connection with appeal from attorney fees order].)

Evidence of Harassment

Pukka contends there is no substantial evidence to support the trial court's findings of harassment underlying the restraining order. We agree.

Code of Civil Procedure section 527.6, subdivision (a)(1) provides that a "person who has suffered harassment as defined in subdivision (b) may seek a temporary restraining order and an order after hearing prohibiting harassment." "Harassment" is defined as "unlawful violence, a credible threat of violence, or a knowing and willful course of conduct

directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose. The course of conduct must be that which would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the petitioner.” (*Id.*, § 527.6, subd. (b)(3).)

“‘Unlawful violence’ is any assault or battery, or stalking as prohibited in Section 646.9 of the Penal Code, but does not include lawful acts of self-defense or defense of others.” (Code Civ. Proc., § 527.6, subd. (b)(7).) There was no allegation or finding in this case of unlawful violence against Lall-Yepez or her family members.

“‘Credible threat of violence’ is a knowing and willful statement or course of conduct that would place a reasonable person in fear for his or her safety or the safety of his or her immediate family, and that serves no legitimate purpose.” (Code Civ. Proc., § 527.6, subd. (b)(2).)

“‘Course of conduct’ is a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including following or stalking an individual, making harassing telephone calls to an individual, or sending harassing correspondence to an individual by any means, including, but not limited to, the use of public or private mails, interoffice mail, facsimile, or email. Constitutionally protected activity is not included within the meaning of ‘course of conduct.’” (Code Civ. Proc., § 527.6, subd.(b)(1).)

“At the hearing, the judge shall receive any testimony that is relevant, and may make an independent inquiry. If the judge finds by clear and convincing evidence that unlawful harassment exists, an order shall issue prohibiting the harassment.” (Code Civ. Proc., § 527.6, subd.(i).)

The issuance of a restraining order is reviewed for abuse of discretion. (*Parisi v. Mazzaferro* (2016) 5 Cal.App.5th 1219, 1226.) “The appropriate test on appeal is whether the findings (express and implied) that support the trial court’s entry of the restraining order are justified by substantial evidence in the record. [Citation.] But whether the facts, when construed most favorably in [the petitioner’s] favor, are legally sufficient to constitute civil harassment under section 527.6, and whether the restraining order passes constitutional muster, are questions of law subject to de novo review.’ (*R.D. v. P.M.* (2011) 202 Cal.App.4th 181, 188, fn. omitted.)” (*Harris, supra*, 248 Cal.App.4th at p. 497.)

In this case, the trial court found a credible threat of violence, but there is no substantial evidence to support the finding. There was no evidence that Pukka made a knowing and willful statement that would place a reasonable person in fear for her or her family’s safety. Lall-Yepez’s petition alleged that Pukka repeatedly said he owned a gun and knew how to use it, and had threatened to use a gun. Although Lall-Yepez testified at trial that the allegations in the petition were true, these statements alone are too vague to support finding a credible threat of violence that would

place a reasonable person in fear for her or her family's safety. There was no information about when the statements were made, to whom the statements were made, or the context in which the statements were made. Lall-Yepez testified that she did have communications with Pukka between November 2014 and February 2016. Lall-Yepez's husband testified that he had not spoken with Pukka since 2012. The evidence was undisputed that Pukka had never threatened to shoot Lall-Yepez and she was not claiming that he had threatened to shoot her. The statements that Pukka said he owned a gun and had threatened to use it, although Lall-Yepez testified that they were true, were too vague standing alone to support finding a credible threat of violence that would place Lall-Yepez in fear for her or her family's safety.

There was also no evidence that Pukka's photography was a course of conduct that served no legitimate purpose. The evidence was that Pukka took eight photographs of people on his porch before the temporary restraining order was entered. The photos were taken to support his complaints that people were on his porch creating a disturbance, which was a legitimate purpose for taking photos. There was no evidence that anyone asked him to stop taking photos of people on his porch. During the course of the proceedings, which were lengthy due to Lall-Yepez's presentation of multiple collateral matters related to third parties, Pukka took additional photos to defend against accusations in the proceedings. The photographs were used

solely in connection with the court proceedings. Lall-Yeppez did not show that the photos had no legitimate purpose or that she was harassed by the photos within the meaning of the statute. The order must be reversed.

DISPOSITION

The order is reversed. Appellant Mister Pukka is awarded his costs on appeal.

MOOR, J.

We concur:

BAKER, Acting P.J.

KIM, J.